

BEFORE THE  
POLLUTION CONTROL HEARINGS BOARD  
STATE OF WASHINGTON

IN THE MATTER OF )  
UNITED STATES POSTAL )  
SERVICE, )  
Appellant, )  
v. )  
PUGET SOUND AIR )  
POLLUTION CONTROL )  
AGENCY, )  
Respondent. )

PCHB No. 79-80

FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER

THIS MATTER, the appeal of a \$250 civil penalty for emissions allegedly in violation of respondent's Section 9.09(b)(1) of Regulation I (particulate weight standard) having come on regularly for formal hearing on the 12th day of October, 1979 in Tacoma, Washington, and appellant, United States Postal Service, appeared by its Superintendent of Building Maintenance, Elbert L. Green, and

1 respondent, Puget Sound Air Pollution Control Agency, appearing  
2 through its attorney, Keith D. McGoffin with William A. Harrison,  
3 hearing examiner presiding, and the Board having considered the  
4 exhibits, records and files herein and having reviewed the Proposed  
5 Order of the presiding officer mailed to the parties on the 31st day  
6 of October, 1979, and more than twenty days having elapsed from said  
7 service; and

8 The Board having received no exceptions to said Proposed Order and  
9 the Board being fully advised in the premises; NOW THEREFORE,

10 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that said Proposed  
11 Order containing Findings of Fact, Conclusions of Law and Order dated  
12 the 31st day of October, 1979, and incorporated by reference herein  
13 and attached hereto as Exhibit A, are adopted and hereby entered as  
14 the Board's Final Findings of Fact, Conclusions of Law and Order  
15 herein.

16 DATED this 4<sup>th</sup> day of December, 1979.

17 POLLUTION CONTROL HEARINGS BOARD

18   
19 NAT W. WASHINGTON, Chairman

20   
21 CHRIS SMITH, Member

22   
23 DAVID ANNA, Member

24  
25  
26 FINAL FINDINGS OF FACT,  
27 CONCLUSIONS OF LAW  
AND ORDER 2


CERTIFICATE OF MAILING

I, LaRene Barlin, certify that I mailed, postage prepaid, copies of the foregoing document on the 4<sup>th</sup> day of December, 1979, to each of the following-named parties, at the last known post office addresses, with the proper postage affixed to the respective envelopes:

Mr. R. V. Gambrell, Manager  
Office of Plant Maintenance  
Terminal Annex, Room 238  
Seattle, Washington 98134

Mr. Keith D. McGoffin  
Rovai, McGoffin and Turner  
818 South Yakima Avenue  
Tacoma, Washington 98405

Puget Sound Air Pollution Control Agency  
P. O. Box 9863  
Seattle, Washington 98109

  
LaRene Barlin, Adm. Asst.  
POLLUTION CONTROL HEARINGS BOARD

BEFORE THE  
POLLUTION CONTROL HEARINGS BOARD  
STATE OF WASHINGTON

IN THE MATTER OF  
UNITED STATES POSTAL SERVICE,

Appellant,

v.

PUGET SOUND AIR POLLUTION  
CONTROL AGENCY,

Respondent.

PCHB No. 79-80

PROPOSED FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND  
ORDER

This matter, the appeal of a \$250 civil penalty for emissions allegedly in violation of respondent's Section 9.09(b)(1) of Regulation I (particulate weight standard), came on for hearing before the Pollution Control Hearings Board convened at Tacoma, Washington on October 12, 1979. Hearing Examiner William A. Harrison presided. Respondent elected a formal hearing pursuant to RCW 43.21B.230.

Appellant appeared by its Superintendent of Building Maintenance, Elbert L. Green. Respondent appeared by its attorney, Keith D. McGoffin. Reporter Betty Koharski recorded the proceedings.

1 Witnesses were sworn and testified. Exhibits were examined. From  
2 testimony heard and exhibits examined, the Pollution Control Hearings  
3 Board makes these:

4 FINDINGS OF FACT

5 I

6 Respondent, pursuant to RCW 43.21B.260, has filed with this Board  
7 a certified copy of its Regulation I containing respondent's regulations  
8 and amendments thereto, of which official notice is taken.

9 II

10 Appellant, U. S. Postal Service, owns a building known as Terminal  
11 Annex in Seattle. It is located in an industrial valley where respondent  
12 has mounted an effort to reduce air pollution.

13 Possibly because of energy conservation policies, the heating  
14 system at the Annex developed emission problems which came to  
15 respondent's attention. Respondent's source test engineer visited with  
16 Postal Service maintenance officials in January, 1979. The rotary cup  
17 oil burners in the Annex heating system were identified as a source of  
18 poor combustion and therefore inimical to both energy conservation and  
19 pollution control. The Postal Service acknowledged this and stated  
20 their intention to replace the burners with modern, efficient replace-  
21 ments. Because of this respondent did not require a source test while  
22 the old burners were in place. Nevertheless, the Postal Service  
23 insisted on a source test to document the performance of the old  
24 burners. A source test according to standards set by the U. S.

26 PROPOSED FINDINGS OF FACT,  
27 CONCLUSIONS OF LAW AND  
ORDER

1 Environmental Protection Agency was conducted by respondent on March 15,  
2 1979, with appellant present and assisting.

3 Following laboratory analysis, respondent correctly determined  
4 that appellant's emissions on the day of the test included particulate  
5 matter weighing .123 grains per standard cubic foot of exhaust gas on  
6 one occasion and .176 on another. Appellant later received a Notice of  
7 Violation citing respondent's Section 9.09(b)(1) of Regulation I and a  
8 civil penalty assessment of \$250. From this, appellant appeals.

9 III

10 Appellant subsequently selected replacement burners from those  
11 which it was reviewing prior to the source test. Replacement burners  
12 were installed at the Annex at a cost of \$25,000 and were scheduled to  
13 begin operation on October 15, 1979.

14 IV

15 Any Conclusion of Law hereinafter stated which should be deemed  
16 a Finding of Fact is hereby adopted as such.

17 From these Findings the Pollution Control Hearings Board comes  
18 to these

19 CONCLUSIONS OF LAW

20 I

21 Section 9.09(b)(1) of respondent's Regulation I states, in  
22 pertinent part:

23 "It shall be unlawful for any person to cause or  
24 allow the emission of particulate matter . . . if the  
25 particulate matter discharged into the atmosphere from  
any single source exceeds the following weights at the  
point of discharge:

26 PROPOSED FINDINGS OF FACT,  
27 CONCLUSIONS OF LAW AND  
ORDER

1 (b)(1) In fuel burning equipment, 0.10 grains  
2 per each standard cubic foot of exhaust gas . . ."

3 In causing the emission of particulate matter in the amount of .123  
4 and .176 grains per each standard cubic foot of exhaust gas, appellant  
5 violated Section 9.09(b)(1).

6 II

7 Because of appellant's good faith effort to control pollution  
8 commenced before this source test and later brought to fruition, the  
9 civil penalty in this matter should be mitigated by suspension.

10 III

11 Any Finding of Fact which should be deemed a Conclusion of Law  
12 is hereby adopted as such.

13 Therefore, the Pollution Control Hearings Board issues this

14 ORDER

15 The \$250 civil penalty is affirmed, provided however, that it  
16 is suspended on condition that appellant not violate respondent's  
17 Regulations by emission from its Terminal Annex for a period of six months  
18 from the date of appellant's receipt of this Order.

19 DONE at Lacey, Washington this 31<sup>st</sup> day of October, 1979.

20 POLLUTION CONTROL HEARINGS BOARD

21 William A. Harrison

22 WILLIAM A. HARRISON  
23 Presiding Officer  
24  
25

26 PROPOSED FINDING OF FACT,  
27 CONCLUSIONS OF LAW AND  
ORDER